

**From:** Brendan McGarry <bmcgarry@vgmlaw.com>  
**Sent:** Tuesday, February 25, 2014 11:15 AM  
**To:** Solomon, Andrew T.; Fahey, Caitlin C.  
**Cc:** Gerald Miller  
**Subject:** RE: Follow Up on Motion to Dismiss

We believe the motion to be moot and will be responding to your amended affirmative defenses and counterclaims. As I said to Caitlin, I don't believe you have a duty to file a response to the motion as you have amended the pleading which was the subject of the motion, thereby making the motion moot. We don't plan to file anything with the Court withdrawing the motion.

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**From:** Solomon, Andrew T. [<mailto:asolomon@sandw.com>]  
**Sent:** Tuesday, February 25, 2014 10:05 AM  
**To:** Brendan McGarry; Fahey, Caitlin C.  
**Cc:** Gerald Miller  
**Subject:** RE: Follow Up on Motion to Dismiss

Can you confirm that you are therefore withdrawing the pending motion to dismiss?

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**From:** Brendan McGarry [<mailto:bmcgarry@vgmlaw.com>]  
**Sent:** Tuesday, February 25, 2014 9:54 AM  
**To:** Fahey, Caitlin C.  
**Cc:** Solomon, Andrew T.; Gerald Miller  
**Subject:** RE: Follow Up on Motion to Dismiss

Caitlin,

We intend to file an Answer to your amended affirmative defenses and counterclaims.

Regards,

Brendan

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**From:** Fahey, Caitlin C. [<mailto:cfahey@sandw.com>]  
**Sent:** Monday, February 24, 2014 6:43 PM  
**To:** Brendan McGarry  
**Cc:** Solomon, Andrew T.  
**Subject:** Follow Up on Motion to Dismiss

Brendan,

Following up on our correspondence and telephone calls last week, our deadline to respond to your motion to dismiss is on Wednesday. Now that you've hopefully had a chance to review our amended answer, we would like to know if you have come to any decision in regards to (1) withdrawing the motion to dismiss, (2) filing a new motion against the amended pleading, or (3) filing an answer to the amended counterclaims.

Thank you.

Best,

Caitlin

**Caitlin C. Fahey**  
**Attorney at Law**  
**Sullivan & Worcester LLP**


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